

A JOINT MEMORIAL

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2 REQUESTING THE NEW MEXICO LEGISLATIVE COUNCIL TO DIRECT THE  
3 APPROPRIATE INTERIM LEGISLATIVE COMMITTEE TO STUDY THE  
4 INCONSISTENCY BETWEEN STATE AND FEDERAL LAW WHEREBY AN INCUMBENT  
5 LOCAL EXCHANGE CARRIER PROVIDING SERVICES IN THE STATE MEETS THE  
6 DEFINITION OF A RURAL TELEPHONE COMPANY UNDER FEDERAL LAW BUT  
7 DOES NOT MEET THE DEFINITION OF AN INCUMBENT RURAL  
8 TELECOMMUNICATIONS CARRIER UNDER STATE LAW.

9 WHEREAS, an incumbent local exchange carrier is either regulated under the  
10 Rural Telecommunications Act of  
11 New Mexico if the carrier has fewer than fifty thousand access lines or regulated under  
12 the New Mexico Telecommunications Act if the carrier has more than fifty thousand  
13 access lines; and

14 WHEREAS, if a local exchange carrier is regulated under the Rural  
15 Telecommunications Act of New Mexico, it is considered an incumbent rural  
16 telecommunications carrier and is subject to relaxed regulation; and

17 WHEREAS, if a local exchange carrier is regulated under the New Mexico  
18 Telecommunications Act, it is essentially considered a large incumbent carrier  
19 regardless of whether it has fifty thousand one access lines or hundreds of thousands  
20 of access lines; and

21 WHEREAS, a large incumbent carrier is subject to an alternate form of  
22 regulation, as approved by the public regulation commission, which includes price  
23 caps for residential and business local exchange service as well as quality of service  
24 and consumer protection standards; and

25 WHEREAS, local exchange carriers in the state range in size from a small  
carrier with a few hundred access lines, to a medium size carrier of approximately  
ninety-seven thousand access lines, to the largest carrier with more than seven  
hundred thousand access lines; and

1 WHEREAS, in some cases, an incumbent local exchange carrier in the state  
2 that does not meet the definition of an incumbent rural telecommunications carrier  
3 under New Mexico law is considered a rural telephone company under federal law; and

4 WHEREAS, the levels of regulation differ significantly for those incumbent local  
5 exchange carriers regulated under the Rural Telecommunications Act of New Mexico  
6 and those regulated under the New Mexico Telecommunications Act; and

7 WHEREAS, no middle tier of regulation exists under  
8 New Mexico law; and

9 WHEREAS, the legislature has declared, specifically in the Rural  
10 Telecommunications Act of New Mexico, that rural carriers should be subject to more  
11 relaxed regulation and that the cost of regulation should be reduced; and

12 WHEREAS, the legislature has also declared in the  
13 Rural Telecommunications Act of New Mexico that in helping to create a competitive  
14 telecommunications environment in the state, there should be consistency with the  
15 federal Telecommunications Act of 1996; and

16 WHEREAS, under the New Mexico Telecommunications Act, the legislature has  
17 declared not only the need to create a competitive telecommunications environment,  
18 but also the need to encourage investment in telecommunications infrastructure; and

19 WHEREAS, the role of government and the legislature should be to help  
20 achieve those objectives and to fashion a regulatory environment that not only  
21 streamlines regulation, but also enhances economic development and encourages  
22 investment in the state, and further promotes the value that telecommunications  
23 services bring to the citizens of the state of New Mexico, particularly in rural areas;

24 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
25 STATE OF NEW MEXICO that the New Mexico legislative council be requested to  
direct the appropriate interim legislative committee to study the most appropriate  
means to address the situation where an incumbent local exchange carrier does not  
meet the definition of an incumbent rural telecommunications carrier under New Mexico  
law but does meet the definition of a rural telephone company under federal law; as it

1 considers changes in law to create consistency in regulation, to consider issues such  
2 as the need for relaxed regulation, reduction of regulatory costs, certainty of  
3 regulatory requirements, quality of service, consumer protection, the characteristics of  
4 the service area and the encouragement of economic development; and to report its  
5 findings to the first session of the forty-seventh legislature; and

6 BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the  
7 co-chairs of the New Mexico legislative council and the members of the public  
8 regulation commission.

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